

ORDINANCE NO. 3845

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND ENTITLED "AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A DEED FOR THE PURPOSE OF CONVEYING CERTAIN SURPLUS PROPERTY LOCATED AT 547 EASTERN AVENUE IN THE CITY OF CUMBERLAND, ALLEGANY COUNTY, MARYLAND TO JOHN H. WOLFE, SR."

WHEREAS, Mayor and City Council of Cumberland is the fee simple owner of a certain parcel of real property located at 547 Eastern Avenue in the City of Cumberland, Allegany County, Maryland;

WHEREAS, the said property was declared to be surplus property under the terms of Order No. 26,371, passed by the Mayor and City Council on November 20, 2018;

WHEREAS, John H. Wolfe, Sr. offered to purchase the said property for the sum of \$3,600.00 in accordance with the terms of the Contract of Sale attached hereto as Exhibit A; and

WHEREAS, the Mayor and City Council deem the acceptance of that offer to be in the City's best interests.

NOW, THEREFORE

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that the Mayor and City Council accept John H. Wolfe, Sr.'s offer to purchase the real property located at 547 Eastern Avenue, Cumberland, MD 21502 for the purchase price of \$3,600.00 and the Mayor is hereby authorized to execute the Contract of Sale attached hereto as Exhibit A;

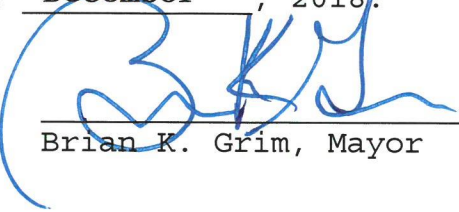
SECTION 2: AND BE IT FURTHER ORDAINED, that the Mayor and City Clerk be and they are hereby authorized to execute

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a deed in the form attached hereto as Exhibit B or in a similar form approved by the City Solicitor, conveying the aforesaid real property to John H. Wolfe, Sr. in exchange for the payment of the aforesaid purchase price;

SECTION 4: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this 18th day of December, 2018.



Brian K. Grim, Mayor

ATTEST:



Marjorie A. Woodring, City Clerk

1st reading - December 4, 2018
2nd reading - December 18, 2018
3rd reading - December 18, 2018
Passed:4-0

EXHIBIT A

CONTRACT OF SALE

THIS CONTRACT OF SALE ("Contract") is made by and between **Mayor and City Council of Cumberland** ("Seller") and **John H. Wolfe, Sr.** ("Buyer") and is effective as of the date its execution is completed as shown in the signature provisions on the last page hereof.

1. **Property Description.** Seller does agree to sell to Buyer, and Buyer does agree to purchase from Seller, the following tract or parcel of land, together with the appurtenances thereto which are owned by Seller and are hereinafter referred to as the "Property": 547 Eastern Avenue, Cumberland, MD 21502, Allegany County Land Records Book 2052, Page 415, Tax Account No. 22-008765.

2. **Purchase Price.** The purchase price for the Property (the "Purchase Price") is Three Thousand Six Hundred Dollars (\$3,600.00), which Purchase Price includes the real property and improvements described in Section 1 above.

3. **Payment Terms.** The Purchase Price shall be paid at settlement.

4. **Estate.** The Property is being conveyed in fee simple.

5. **Contingencies.** There are no contingencies for this Contract other than those expressly set forth herein.

6. **Representations & Warranties.** The Property is being sold in as-is condition, without any express or implied warranties or representations made as to its condition or otherwise, and subject to all defects, if any, known and unknown.

7. **Risk of Loss.** The Property is to be held at the risk of Seller until legal title has passed or possession has been given to Buyer.

8. **Adjustments.** All general or special taxes, rents, ground rents, public, private or community water and/or sewer charges, including any deferred sewer and water tap fees, homeowners association charges and all other public, private or governmental charges or assessments, excluding liens which must be paid prior to deed recordation, which may exist, whether such have been levied or not, are to be adjusted and apportioned as of the date of settlement, and will be assumed and paid thereafter by Buyer.

It is understood that the Property is presently exempt from real estate taxes, but will become subject to such taxation upon the date of settlement. Buyer will need to pay the real estate taxes for the present tax year from the date of settlement through the end of the current tax year.

9. **Deed and Title.** Upon payment of the Purchase Price, a quit claim deed for the Property shall be executed by Seller at its expense, which shall convey the Property to Buyer. Title to the Property shall be good and merchantable, free of liens and encumbrances, except as specified herein and except use and occupancy restrictions of public record which are generally applicable to properties in the immediate neighborhood or the subdivision in which the Property is located

and publicly recorded easements for public utilities and any other easements which may be observed by an inspection of the Property.

10. **Agency.** Seller and Buyer understand that Mark VanTyne and Julian Agency Real Estate have assisted Buyer in the procurement of this Contract. In the event any real estate agent's or broker's commission or other fee is payable to Mark VanTyne and/or Julian Agency Real Estate in connection with this Contract or the transactions contemplated by its terms, it shall be paid entirely by Buyer without any contribution from Seller. Furthermore, Buyer agrees to indemnify and hold Seller harmless with respect to any amounts claimed by Mark VanTyne and/or Julian Agency Real Estate. The terms of this section shall survive closing and shall not merge into the deed effecting the conveyance of the Property from Buyer to Seller.

11. **Settlement.** Settlement shall occur no later than thirty (30) days after Seller's passage of an Ordinance approving this Contract and the sale of the Property. Seller's City Solicitor shall have the authority to extend the date for settlement on Seller's behalf.

12. **Documentary Stamps, Recordation, Transfer Taxes.** All transfer and recordation taxes and fees payable in connection with the sale of the Property shall be paid by Buyer.

13. **Assignability.** This Contract may not be assigned without the written consent of Seller, which consent may be withheld for any reason or no reason at all. If Seller agrees in writing to an assignment of this Contract, the original Buyer shall remain obligated hereunder until settlement.

14. **Captions.** The marginal captions of this Contract are for convenience and in no way define or limit the intents, rights or obligations of the parties hereunder.

15. **Entire Agreement.** This Contract contains the final and entire agreement between the parties, and neither they nor their agents shall be bound by any terms, conditions, statements, warranties or representations, oral or written, not herein contained.

16. **Maryland Law Applies.** This Contract shall be governed and construed according to the laws of the State of Maryland without regard to principles of conflict of laws. It shall be enforceable exclusively by means of an action commenced in the Circuit Court for Allegany County, Maryland or the District Court of Maryland for Allegany County, and both parties waive the right to claim that such a proceeding is commenced in an inconvenient forum or one that lacks proper venue.

17. **Breach of Contract and Default.** Buyer and Seller are required and agree to make full settlement in accordance with the terms of this Contract and acknowledge that failure to do so constitutes a breach hereof. In the event of a breach, each of the parties hereto is entitled to pursue such rights and remedies as may be available, in law or in equity, including, without limitation, an action for specific performance of this Contract and/or monetary damages. If either party defaults, the party committing the default, whether Buyer or Seller, shall reimburse and be liable to the non-

defaulting party for the court costs, litigation expenses, and reasonable attorneys' fees and costs that party incurs as a result of the default.

18. **Binding Effect.** This Contract shall be binding upon the parties hereto and each of their respective heirs, personal representatives, administrators, executors, successors, assigns, and guardians.

19. **Gender/Tense/Conjugation.** The use of any gender, tense, or conjugation herein shall be applicable to all genders, tenses and conjugations. The use of the singular shall include the plural and the plural shall include the singular.

20. **Jury Trial Waiver.** THE PARTIES HERETO WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH ANY OF THEM MAY BE PARTIES ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS CONTRACT. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS CONTRACT.

21. **Counterparts.** This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

22. **Signing by Facsimile or Other Electronic Means.** Each of the parties hereto expressly authorizes and agrees to sign facsimile and/or other electronically transmitted copies or counterparts of this Contract. Once said facsimile and/or other electronically transmitted signed copies or counterparts are executed by each of the parties hereto, they shall have the same binding effect as would a signed original Contract once delivered to the other party.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures hereto as of the date written beneath those signatures.

WITNESS:

MAYOR AND CITY COUNCIL OF
CUMBERLAND

By: _____



Date


John H. Wolfe, Sr.

John H. Wolfe, Sr.

Nov 21, 2018

Date

EXHIBIT B

DEED ONLY – NO TITLE SEARCH PERFORMED

THIS QUITCLAIM DEED, made this ____ day of December, 2018, by and between the **Mayor and City Council of Cumberland**, a Maryland municipal corporation, party of the first part, and **John H. Wolfe, Sr.**, of Garrett County, Maryland, party of the second part.

WITNESSETH:

That for and in consideration of the sum of Three Thousand Six Hundred Dollars (\$3,600.00) cash in hand paid and for other good and valuable considerations, the receipt of all of which is hereby acknowledged, the party of the first part does hereby grant, bargain and sell, release, confirm and convey unto the party of the second part, his personal representatives, heirs and assigns, the following described property, to wit:

ALL that lot, piece or parcel of ground lying and being on the southeasterly side of Eastern Avenue, known and designated as Lot No. 258 in the Cumberland Improvement Company's Eastern Addition to the City of Cumberland, Allegany County, Maryland, which said lot is more particularly described as follows, to-wit:

BEGINNING at a point in the southeasterly side of Eastern Avenue at the end of the first line of Lot No. 257 in said Addition and running thence with the southeasterly side of said Eastern Avenue, North 40 degrees East 40 feet, then at right angles to said Avenue, South 50 degrees East 120 feet to an alley and with it South 40 degrees West 40 feet to the end of the second line of said Lot No. 257 and with said second line reversed North 50 degrees 120 feet to the place of beginning.

IT BEING the same property which was conveyed from Demetrius Govotsos, to the party of the first part by deed dated March 25, 2014 and recorded among the Land Records of Allegany County, Maryland in Book 2052, Page 415.

TOGETHER with the buildings and improvements thereon, and the rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the above-described property unto the party of the second part, his successors and assigns in fee simple forever.

WITNESS the hand and seal of the party of the first part the day and year first above written.

**MAYOR AND CITY COUNCIL
OF CUMBERLAND**

Marjorie A. Woodring, City Clerk

By: _____ (SEAL)
Brian K. Grim, Mayor

**STATE OF MARYLAND,
ALLEGANY COUNTY, TO WIT:**

I HEREBY CERTIFY, that on this ____ day of _____, 2018, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Brian K. Grim**, known to me or satisfactorily identified to be the person whose name is subscribed to the within instrument, the Mayor of Mayor and City Council of Cumberland, a municipal corporation of the State of Maryland, and acknowledged the foregoing to be the act and deed of the said Mayor and City Council of Cumberland; and at the same time made oath he is duly authorized by it to make this acknowledgment; and he further certified under the penalties of perjury that the actual consideration for the foregoing conveyance is \$3,600.00 and he further made oath in due form of law that this transaction is not subject to the provisions of Section 10-912 of the Tax General Article of the Maryland Annotated Code as the grantor is a resident of the State of Maryland.

WITNESS my hand and Notarial Seal.

NOTARY PUBLIC

My Commission Expires: _____

The foregoing deed was prepared by the undersigned Maryland-licensed attorney. No title search was performed in connection with its preparation.

Michael Scott Cohen